

9:00 a.m.
May 22, 2001

MINUTES – REGULAR MEETING

Evergreen Plaza Bldg. Room 206
711 Capitol Way South
Olympia, Washington

COMMISSION MEMBERS PRESENT

Ronda Cahill, Chair
Christine Yorozu, Vice Chair
Gerry Marsh, Secretary
Susan Brady, Member
Lois Clement, Member

STAFF PRESENT

Vicki Rippie, Executive Director
Susan Harris, Assistant Director
Michael Smith, Chief Technology Officer
Nancy Krier, Asst. Attorney General
Neil Gorrell, Asst. Attorney General
Ruthann Bryant, Secretary

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Ronda Cahill at 9:00 a.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

Minutes

Moved by Commissioner Marsh, seconded
by Commissioner Brady:

Motion 01-181

**The Commission adopts the minutes
of the regular meeting of April 24,
2001 as written.**

The motion passed unanimously.

Citizen Comments/Concerns

No citizen comments were expressed.

Commissioner Comments

No commissioner comments were expressed.

Staff Reports

Executive Director

Vicki Rippie reported on the status of the FY 2001
budget noting that approximately \$150,000 in

supplemental funding remains for information technology upgrades and developing the Lobbyist/Lobbyist Employer electronic filing application.

Assistant Director

Susan Harris thanked Commissioner Brady and Commissioner Yorozu for attending the Thurston County Regional Planning forum held on May 15th.

Commissioner Yorozu commented that Nancy Krier's assistance at the forum was appreciated and she also complimented Doug Ellis and Susan Harris for the preparation work accomplished in advance of the forum.

Ms. Harris reported that an electronic reference manual containing each section of law and all related information is being compiled for posting on the website for easy access. She also noted that 870 F1 reminder postcards have been mailed out to elected officials.

Ms. Harris noted that Jennifer Hansen has been hired to fill the receptionist position left vacant by the departure of Devonee Davis. She also reported that the Personnel Resources Board approved the Political Finance Specialist position reallocations.

Chief Technology Officer

Michael Smith summarized the web site usage report and demonstrated the Outlook Web Access system to enable the commissioners to access agency-provided Internet email.

Assistant Attorney General

Nancy Krier summarized the status of pending litigation. She noted that Robert Edelman recently filed a lawsuit in Superior Court appealing the Commission's decision to deny his Petition for rule-making of WAC 390-16-309 and WAC 390-16-311.

Ms. Krier also introduced Linda Moran and Linda Dalton from the Attorney General's Office. Linda Moran, Division Chief for the Licensing and Administrative Law Division, summarized the

reorganization within the Attorney General's Office noting that her division provides advice to boards and commissions. Linda Dalton, Division Chief for the Regulatory Division, summarized the function of her division in providing prosecutorial services for staff.

Reporting Modifications

New

*Richard Jones, King County
Superior Court Judge*

Phil Stutzman reported that Mr. Jones requests an exemption from reporting his residence address and property location.

Commissioner Cahill noted that Mr. Jones needs to amend his Statement of Financial Affairs to reflect the dollar amount for food and travel provided to him by the YMCA for the national meeting.

Motion 01-182

Moved by Commissioner Yorozu, seconded by Commissioner Marsh:

The Commission grants the reporting modification to Richard A. Jones, as requested.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

The new reporting modification requests for Richard R. Baldwin, Leslie D. Jones and Linda Owings-Rosenburg were considered en masse.

Motion 01-183

Moved by Commissioner Marsh, seconded by Commissioner Clement:

The Commission grants the reporting modification requests by Richard R. Baldwin, Leslie D. Jones, and Linda Owings-Rosenburg as requested.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Constance Proctor, Regent,
Univ. of Washington*

Mr. Stutzman reported that Ms. Proctor requests an exemption from reporting business customers and governmental agencies of the law firm of Alston, Courtage, MacAulay & Proctor of which she was a partner for three months during 2000.

Motion 01-184

Moved by Commissioner Marsh, seconded by Commissioner Clement:

The Commission grants a reporting modification to allow Constance Proctor to satisfy the reporting requirements of RCW 42.17.241 (1)(g)(ii) by identifying for the three months during which she was a partner:

- (a) The names of the reportable business clients for whom the applicant has done legal work;**
- (b) Other reportable business clients of the law firm whose interests are significantly affected by the actions of the University of Washington, whose identities become known to the applicant by any means;**
- (c) The names of the reportable business clients of the law firm listed in Martindale Hubbell, the firm's publicity**

**brochure(s), the firm's resume, or whose identities are otherwise publicized; and
(d) All governmental clients that have done business with the law firm.**

The applicant shall recuse herself from participating in decisions in her official capacity that affects the interests of the law practice for which the reporting modification was requested.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Kristine M. Mikkelson, Trustee
Eastern Washington Univ.*

Mr. Stutzman reported that Ms. Mikkelson requests an exemption from reporting business customers of the accounting firm of McDirmid, Mikkelson and Secrest, P.S.

Motion 01-185

Moved by Commissioner Cahill, seconded by Commissioner Marsh:

The Commission grants the reporting modification for Kristine M. Mikkelson subject to her recusal from voting as a member of the Board of Trustees regarding matters concerning any known reportable business clients of the accounting firm of McDirmid, Mikkelson and Seacrest, P.S. or the firm itself.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Renewals (with changes)

*Marcus S. Gaspard, Member
Higher Education Facilities
Authority*

Mr. Stutzman reported that Mr. Gaspard requests an exemption from reporting business customers of Good Samaritan Healthcare and the Tacoma/Pierce County YMCA.

Motion 01-186

Moved by Commissioner Brady, seconded by Commissioner Marsh:

The Commission grants the requested reporting modification to Marcus S. Gaspard, subject to his recusal from voting on matters regarding Good Samaritan Healthcare as a member of Higher Education Facilities Authority.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Renewals (no change)

“Renewals with no changes” reporting modification requests were considered en masse.

Motion 01-187

Moved by Commissioner Yorozu, seconded by Commissioner Brady:

The Commission grants the reporting modifications requested by Timothy Austin, Jeffrey H. Brotman, Gregory R. Dallaire, Stephen L. Johnson, Karen Lane, Gary Locke, Kirk Michels, Arch Miller, Jeffrey W. Nitta, J. Michael Ogan, Richard M. Roozen and Margaret Weiss.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Enforcement Matters

Requests for Review

Blair Ford, case #00-429

Phil Stutzman reported that a brief enforcement hearing was held December 9, 1999 in which Mr. Ford was found in violation of RCW 42.17.240 for failure to file a Statement of Financial Affairs. Mr. Ford was assessed a penalty of \$500 with \$450 suspended based on the conditions in the January 14, 2000 order. The form was filed on February 16, 2000.

Mr. Ford was present and addressed the Commission stating that he believed he had complied with the order when he filed the form in February of 2000 and requested that the penalty be reduced.

Motion 01-188

Moved by Commissioner Brady, seconded by Commissioner Cahill:

The Commission upholds the violation of RCW 42.17.240 in case #00-429 and reinstates the original penalty of \$500 with \$450 suspended pending no violations of RCW 42.17 for four years.

The motion passed unanimously.

Andrew Nelson, case #00-648

Phil Stutzman reported that a brief enforcement hearing was held December 9, 1999 in which Mr. Nelson was found in violation of RCW 42.17.240 for failure to file a Statement of Financial Affairs. Mr. Nelson was assessed a penalty of \$500 with \$450 suspended based on the conditions in the January 14, 2000 order.

Mr. Nelson was present and reported that he believed he did not need to file the Statement of Financial Affairs since there were fewer than 5000 voters in his district.

Motion 01-189

Moved by Commissioner Brady, seconded by Commissioner Marsh:

The Commission upholds the violation of RCW 42.17.240 in case #00-648 and reinstates the original penalty of \$500 with \$450 suspended on the condition that the penalty is paid and the Statement of Financial Affairs is filed within 30 days from the date the order is signed.

The motion passed unanimously.

The Commission considered the reviews for Edward M. Guelfi, Perry W. Pursell Jr., and Katherine Shepardson en masse.

Motion 01-090

Moved by Commissioner Brady, seconded by Commissioner Yorozu:

The Commission vacates the orders in PDC case #00-462 Edward M. Guelfi, case #00-712 Perry W. Pursell Jr., and case #00-759 Katherine Shepardson.

The motion passed unanimously.

*Patrick W. McCombs,
Case #00-611*

Phil Stutzman reported that a brief enforcement hearing was held December 9, 1999 in which Mr. McCombs was found in violation of RCW 42.17.240 for failure to file a Statement of Financial Affairs. Mr. McCombs was assessed a penalty of \$500 with \$450 suspended based on the conditions in the January 14, 2000 order. The form was filed February 7, 2000.

Mr. McCombs provided a letter to the Commission stating that he had no prior experience with

running for public office and was unaware that he needed to file with the PDC. Mr. McCombs filed the Statement of Financial Affairs immediately upon learning of the requirement, however, he did not pay the penalty.

Motion 01-191

Moved by Commissioner Brady, seconded by Commissioner Marsh:

The Commission upholds the violation of RCW 42.17.240 in case #00-611 and reinstates the original penalty of \$500 with \$450 suspended pending no violations of RCW 42.17 for the remainder of his current term of office.

The motion passed unanimously.

Commissioner Yorozu expressed concern with people not reading the entire order and suggested that staff include a cover letter to focus the reader's attention on the penalty portion of the order.

Nancy Krier suggested adding the language "Order Imposing Fine" in capital letters and boldface print to the first page of the order in an effort to encourage the recipient to read the entire document.

Connie Epperly, case #00-412

Mr. Stutzman reported that a brief enforcement hearing was held December 9, 1999 in which Ms. Epperly was found to have violated RCW 42.17.050 for failure to timely file a Candidate Registration. Ms. Epperly was assessed a penalty of \$500 with \$450 suspended based on the conditions in the January 14, 2000 order. The form was filed on February 22, 2000.

Ms. Epperly submitted a letter to the commission stating she faxed the Candidate Registration form in August of 1999 and was unaware that filings via fax were not acceptable.

Motion 01-192

Moved by Commissioner Brady, seconded by
Commissioner Cahill:

**The Commission vacates the order in PDC
case #00-412 Connie Epperly.**

The motion passed unanimously.

The remaining reviews were considered en
masse.

Motion 01-193

Moved by Commissioner Brady, seconded by
Commissioner Marsh:

**The Commission forwards case #00-344
Anne Chastain, case #00-414 John C.
Eremic, case #00-447 Cristela Gonzalez,
case #00-461 John Grover, case #00-546
Arnold B. Kepner, case #00-560 Craig A.
Koznek, case #00-584 Jerry Livingston,
case #00-590 Tim Loving, case #00-607
Patrick McAdams, case #00-621 Patricia A.
Medveckus, case #00-640 Patrick Mullen,
case #00-642 Robert G. Murison, case 00-
668 Shanna L. Owen, case #00-708 John S.
Potter, case #00-779 William R. Spalding,
case #00-797 Bobby L. Sturgill, case #00-
806 James C. Taylor Jr., case #00-818 Gary
Thornton, and case #00-836 John L.
Washington, to the Attorney General's
Office for collection of penalty.**

The motion passed unanimously.

Request for Reconsideration

James Young, case #00-865

Mr. Stutzman reported that a brief enforcement
hearing was held December 9, 1999 in which Mr.
Young was found to have violated RCW 42.17.240
for failure to timely file a Statement of Financial
Affairs. Mr. Young was assessed a penalty of
\$500 with \$450 suspended based on the
conditions in the January 14, 2000 order. The
form was filed on January 8, 2000.

The case was reviewed by the entire Commission on April 25, 2000 however there was no motion made at that time.

Motion 01-194

Moved by Commissioner Brady, seconded by Commissioner Marsh:

The Commission reconsiders case #00-865. The Commission upholds the violation of RCW 42.17.240 against James Young but assesses no penalty.

The motion passed unanimously.

Hearing:

*Gary Toothaker, Superintendent,
Mukilteo School District No 6
Case #00-884*

Assistant Attorney General Neil Gorrell summarized the case against Gary Toothaker, Superintendent, Mukilteo School District for violations of RCW 42.17.130 for using or authorizing the use of the facilities of the Mukilteo School District No. 6 to support ballot issues. Mr. Gorrell read the Stipulation of Facts, Violations and Penalty into the record.

G. Douglas Ferguson, Attorney for Superintendent Toothaker, was present and addressed the Commission noting that the district will provide training to all personnel involved in the publication of materials dealing with school ballot measures.

Commissioner Brady required the training to be conducted well in advance of the 2002 levy election and requested that a schedule of training sessions as well as an agenda be provided to staff to verify that the trainings have been completed.

The complainant, George Annillo, addressed the Commission and stated that the district ran an initial bond and levy for \$60 million which failed in February and resulted in a second issuance of that bond and levy. Mr. Annillo believes that during the second bond and levy the district knowingly

“crossed the line” in an effort to ensure the passage of the ballot measures.

Motion 01-195

Moved by Commissioner Clement, seconded by Commissioner Marsh:

The Commission accepts the Stipulation of Facts, Violations and Penalty of \$7,000 with \$2,000 suspended, as specified in the stipulation, in PDC case #00-884, Gary Toothaker, Superintendent, Mukilteo School District, No. 6.

The motion passed unanimously.

Commissioner Cahill noted that Vicki Rippie was authorized to sign the order on behalf of the Commission.

Executive Session

The Commission went into executive session at 11:00 a.m. to discuss current litigation with legal counsel.

Public Session

The Commission returned to public session at 12:00 and recessed until 1:00 p.m..

Enforcement Matter

Hearing:

*King County, King County Dept.
of Transportation, King County
Transit, Case #01-203 and Case
#01-204*

Attorney General Neil Gorrell summarized the case against King County, King County Department of Transportation and King County Transit for violations of RCW 42.17.680 for failing to obtain written authorization from employees prior to withholding a portion of salaries for contributions to a political committee or for use as political contributions. Staff is recommending the commission refer the matter to the Office of the Attorney General.

Mr. Gorrell read the Stipulation of Facts into the record.

Mr. Gorrell reported that RCW 42.17.680(3) states in part that if a portion of employees' salaries are withheld to make contributions to political committees or as use as political contributions, the authorization of the employee must be obtained prior to the withholding. WAC 390-17-100(1)(a) further clarifies that section of law to read "for the purpose of making one or more contributions to any political committee required to report."

Mr. Gorrell continued by stating that a recent Supreme Court decision, *State of Washington, on the Relation of Evergreen Freedom Foundation, et al v. Washington Education association et al* (140 Wn.2d 615) upheld the Commission's rule, WAC 390-17-100, by stating that when an employer has notice that employee wages are being deducted for the use of a political committee or candidate, the employer may not make the deduction without annual authorization.

Mr. Gorrell stated that officials of King County, King County Department of Transportation and King County Transit were given notice in August 2000, when ATU Local 587 sent a letter to King County that the county was to withhold wages from employees in the form of a special assessment, and those funds were to be used to "oppose 745" or "fight 745." However, they failed to obtain the written authorization from employees prior to withholding a portion of their wages.

Howard Schneiderman the attorney representing the respondents, reported that at the time that the transportation union asked King County to withhold the money, it had not made any decision about how it would spend the money and it is not the duty of the county to be the "watchdog" over the union and look into the affairs of the locals.

Mr. Schneiderman argued that political contribution is defined as "a contribution to a

candidate running for state or local office” and therefore does not apply to this case and the alleged violation should be dismissed. He also commented that the employer is only required to receive a written authorization form when that employer is made aware of the specific intended use of the funds.

Commissioner Marsh questioned why the county did not request further information from the union as to what the special assessment money would be used for.

Motion 01-196

Moved by Commissioner Brady, seconded by Commissioner Yorozu:

The Commission accepts the Stipulation of Facts in PDC case #01-203 and case #01-204, King County, King County Department of Transportation and King County Transit, finds multiple apparent violations of RCW 42.17 and refers the matter to the Attorney General’s Office since the Commission’s own remedies are inadequate.

The motion passed unanimously.

Report

*Amalgamated Transit Union 587
case #01-203 and case#01-204*

Neil Gorrell reported that staff is recommending dismissal of a complaint against Amalgamated Transit Union 587 (ATU 587) for alleged violations of RCW 42.17.680(3) given that the union is neither the employer of the individuals whose wages were withheld nor an entity who is “responsible for the disbursement of funds in payment of wages or salaries” and, therefore, section .680(3) is not applicable to ATU 587 under the facts present in this case.

Motion 01-197

Moved by Commissioner Brady, seconded by Commissioner Marsh:

The Commission dismisses the complaint against Amalgamated Transit Union Local 587, case #01-203 and case #01-204, for alleged violations of RCW 42.17.680.

The motion passed unanimously.

Mr. Gorrell noted that an investigation of a staff-generated complaint alleging that Amalgamated Transit Union 587 failed to register and report as a political committee is in progress.

Adjournment

Commissioner Cahill adjourned the meeting at 2:15 p.m. The next meeting is scheduled for Thursday, June 28, 2001.

Approved by the Commission 6/28/01